

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOSE MORAN, <i>et al.</i> ,	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-0813
	§	
CEILING FANS DIRECT, INC.,	§	
Defendant.	§	

MEMORANDUM AND ORDER

This case is before the Court on the Motion for Leave to File First Amended Complaint [Doc. # 7] in which Plaintiffs seek to name David Gollinger as an additional Plaintiff. Defendant filed its Response [Doc. # 11], arguing that Gollinger should be required to file a written consent to opt-in. Plaintiffs did not file a Reply.

Plaintiffs' Motion was filed prior to the initial pretrial conference. Rule 15(a) provides that leave to amend pleadings "shall be freely given when justice so requires." FED. R. CIV. P. 15(a). The Fifth Circuit has concluded that Rule 15(a) "evinces a bias in favor of granting leave to amend." *Goldstein v. MCI WorldCom*, 340 F.3d 238, 254 (5th Cir. 2003) (citations omitted). In deciding whether to grant leave to file an amended pleading, the district court "may consider such factors as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies


by amendments previously allowed, undue prejudice to the opposing party, and futility of amendment.” *Wimm v. Jack Eckerd Corp.*, 3 F.3d 137, 139 (5th Cir. 1993).

If the district court lacks a “substantial reason” to deny leave, its discretion is not broad enough to permit denial. *Lyn-Lea Travel Corp. v. American Airlines, Inc.*, 283 F.3d 282, 286 (5th Cir. 2002); *Lone Star Ladies Invest. Club v. Schlotzky’s Inc.*, 238 F.3d 363, 367 (5th Cir. 2001) (denying leave to amend absent articulable reason is an abuse of discretion).

Pursuant to Rule 15(a) and its liberal amendment policy, the Court concludes that David Gollinger should be permitted to join as a named Plaintiff and the filing of the amended complaint will be deemed the filing of his written consent. Pursuant to 29 U.S.C. § 256, however, his claim will be deemed filed on the date this Order is entered. Accordingly, it is hereby

ORDERED that Plaintiffs’ Motion for Leave to File First Amended Complaint [Doc. # 7] is **GRANTED**.

SIGNED at Houston, Texas, this **18th** day of **May, 2006**.


Nancy F. Atlas
United States District Judge